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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte IGOR A. SHMULEVICH and PERO SMRZLIC

Appeal 2009-004328
Application 09/682,655¹
Technology Center 2400

Decided: February 16, 2010

Before ROBERT E. NAPPI, MARC S. HOFF,
and ELENI MANTIS MERCADER, *Administrative Patent Judges*.

HOFF, *Administrative Patent Judge*.

DECISION ON APPEAL

¹ The real party in interest is Vignette Corporation.

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134 from a Non-Final Rejection of claims 1-25. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Appellants' invention concerns a system and method for enabling the automatic creation of templates which are then used to convert service data from a non-displayable generic format, such as Extensible Markup Language (XML), to alternate formats, such as Hypertext Markup Language (HTML) and Wireless Markup Language (WML), which are suited to be displayed on various client devices, such as a wireless phone, pager, or personal computer (Spec. ¶¶ [0010], [0022], [0034]). Specifically, a master template corresponding to a set of devices is generated for the creation of individual templates corresponding to specific service data and specific devices (Spec. ¶¶ [0010], [0023]).

Claim 1 is exemplary:

1. A method for generating a plurality of service templates for the conversion of unformatted data to markup language files, comprising:
 - examining non-display-formatted service data corresponding to a selected service to be displayed on one or more target devices or classes of devices;
 - defining in a master style template a plurality of blocks of data corresponding to markup languages and presentation capabilities of the target devices or classes of devices;
 - creating a plurality of service templates using one or more blocks of data selected from the master style template; and
 - configuring each service template for converting the non-display-formatted service data into markup language data adapted to be displayed on one of the target devices or classes of devices.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Richard

US 2002/0073119A1

Jun. 13, 2002

Claims 1-25 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Richard.

Rather than repeat the arguments of Appellants or the Examiner, we make reference to the Appeal Brief (filed January 4, 2007), the Reply Brief (filed October 10, 2007), and the Examiner's Answer (mailed September 11, 2007) for their respective details.

ISSUE

Appellants contend that the Examiner's claim interpretation is not within the context of the Appellants' disclosure (App. Br. 29). Appellants also contend that the XF conversion script of Richard is not a master style template since the master style template is a style template for defining and setting, in blocks of data, presentation format (font, size, color, position on a page) that are absent in the unformatted data from the information provider (App. Br. 29). Furthermore, Appellants contend that the Examiner did not show an identical invention that recites all the claim limitations of the rejected claims (App. Br. 31). Moreover, Appellants contend that Richard teaches pre-existing templates, which is conventional; yet the Appellants' claimed invention resolves the problem of having to generate pre-existing templates by automatically generating a master style template that generates a plurality of templates using one or more blocks of data selected from the master style template (App. Br. 34).

The Examiner finds that the claims are to be given their broadest reasonable interpretation during prosecution, and the scope of a claim cannot

be narrowed by reading disclosed limitations into the claim (Ans. 19). As such, the Examiner finds that Richard anticipates all of the claimed limitations of the claims (Ans. 3-6). Specifically, the Examiner finds that the law of anticipation does not require that a reference “teach” what an Appellants’ disclosure teaches; it is only necessary that the claims “read on” that which is disclosed in the reference (Ans. 19).

Appellants’ contentions present us with the following issue:

Did Appellants show that the Examiner erred in finding that Richard discloses defining a master style template having a plurality of blocks of data corresponding to markup languages and presentation capabilities of the target devices or classes of devices and creating a plurality of service templates using one or more blocks of data selected from the master style template?

FINDINGS OF FACT

The following Findings of Fact (FF) are shown by a preponderance of the evidence.

The Invention

1. According to Appellants, the invention concerns a system and method for enabling the automatic creation of templates which are then used to convert service data from a non-displayable generic format, such as Extensible Markup Language (XML), to alternate formats, such as Hypertext Markup Language (HTML) and Wireless Markup Language (WML), which are suited to be displayed on various client devices, such as a wireless phone, pager, or personal computer (Spec. ¶¶ [0010], [0022], [0034]). Specifically, a master template corresponding to a set of devices is

generated for the creation of individual templates corresponding to specific service data and specific devices (Spec. ¶¶ [0010], [0023]).

Richard

2. Richard teaches conversion of input data marked up in any one of a plurality of markup formats, WML, XML, or HTML. Input data are received from at least one source and the input data are processed directly in any one of the plurality of markup formats to transform the input data into output data in any one of the plurality of markup formats. In processing, first and second requests are typically generated. Input data from the at least one source are accessed in response to the first request. The input data are standardized to generate standardized data in one of the plurality of markup formats, WML, XML, or HTML. The standardized data are then transformed into output data in any one of the plurality of markup formats in response to the second request (Figs. 2, 4, 5; ¶ [0037]).

3. Richard teaches data conversion for communication of data over networks, wherein the data conversion techniques implement an extremely flexible conversion mechanism that does not require that input data be standardized in XML or that the input data strictly respect a hierarchy of tags. Accordingly, the content of Web sites or other information within a markup format is automatically translated using an appropriate script written in the conversion language to "blindly" process a large number of Web sites (¶¶ [0034], [0035]).

4. Richard teaches that a generator module 330 (labeled as "Broker") can break down each request into orders intended for a standardization module 335 (labeled as "Normalizer") and a transformation module 350 (labeled as "Transformer"). The "Broker" module 330 has

access to a repository module 360 adapted to record the most common requests and profiles associated with repository module 360. For example, when information encoded in HTML is transformed into information encoded in WML, the repository module 360 knows the physical characteristics of the device submitting the request. Thus, when a portable telephone attempts to access information on web sites, for instance, the repository module 360 knows the model of a portable telephone and its physical characteristics, such as the dimensions of its display. It is also possible to know the profile of the caller, for example, the site preferences of the caller (Fig. 3; ¶¶ [0037], [0054]).

5. Richard discloses an electronic commerce application in which a converter 440 is integrated within a tier type architecture in which each tier has a well-defined responsibility. This particular electronic commerce application can provide clients with a catalog of products including images, prices, and/or addresses of vendors, wherein the data comes from SQL server database 410, Lightweight Directory Access Protocol (LDAP) server 420 and web server 430. Clients can then use a web browser, for example, to view the results of a client request (Fig. 4; ¶¶ [0057], [0058]).

6. Richard teaches that the XGate converter 640 comprised of standardization interface 635 (labeled as "Normalizer"), transformer interface 650, and finalizer interface 680, works in conjunction with an XF conversion script to convert the input data into a stream of output data. The standardization interface 635 builds an input tree based upon the XML stream. The "Transformer" interface 650 interprets the XF conversion script to guide the node-to-node transformation of the input trees of the input documents to trees of the output documents as defined by the DOM

specification. The "Finalizer" interface 680 provides the output stream by traversing the resulting DOM output tree (Figs. 4, 5, 6; ¶¶ [0071], [0072], [0073], [0074]).

7. Richard teaches that the XF conversion script is a document in markup language that is composed of a list of procedures, wherein each procedure is applicable to nodes of a document that satisfy a well-defined condition. A condition and a procedure associated with that condition are called templates. The XF conversion script is a series of templates. The first template in the list of templates that make up the XF conversion script is known as the "base template" (Figs. 6, 9; ¶¶ [0076-81], [0102]).

PRINCIPLES OF LAW

Anticipation pursuant to 35 U.S.C § 102 is established when a single prior art reference discloses expressly or under the principles of inherency each and every limitation of the claimed invention. *Atlas Powder Co. v. IRECO Inc.*, 190 F.3d 1342, 1347 (Fed. Cir. 1999); *In re Paulsen*, 30 F.3d 1475, 1478-79 (Fed. Cir. 1994).

Analysis of whether a claim is patentable over the prior art under 35 U.S.C. § 102 begins with a determination of the scope of the claim. We determine the scope of the claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction in light of the specification as it would be interpreted by one of ordinary skill in the art. *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004). The properly interpreted claim must then be compared with the prior art.

In an appeal from a rejection for anticipation, Appellants must explain which limitations are not found in the reference. *See Gechter v. Davidson*, 116 F.3d 1454, 1460 (Fed. Cir. 1997) (“[W]e expect that the Board’s anticipation analysis be conducted on a limitation by limitation basis, with specific fact findings for each *contested* limitation and satisfactory explanations for such findings.”)(emphasis added). *See also In re Kahn*, 441 F.3d 977, 985-86 (Fed. Cir. 2006)

ANALYSIS

We select claim 1 as representative of the claims on appeal, pursuant to our authority under 37 C.F.R. § 41.37(c)(1)(vii).

Claim 1 recites “examining non-display-formatted service data corresponding to a selected service to be displayed on one or more target devices or classes of devices; defining, in a master style template, a plurality of blocks of data corresponding to markup languages and presentation capabilities of the target devices or classes of devices; creating a plurality of service templates using one or more blocks of data selected from the master style template; and configuring each service template for converting the non-display-formatted service data into markup language data adapted to be displayed on one of the target devices or classes of devices.”

Appellants contend that the Examiner’s claim interpretation is not within the context of the Appellants’ disclosure (App. Br. 29). Appellants contend that, as a result, the Examiner did not show an identical invention that recites all the claim limitations of the rejected claims (App. Br. 31). Finally, Appellants contend that the Examiner has failed to make a prima

facie case of anticipation since Richard does not disclose each and every claim limitation (App. Br. 34, Reply Br. 6).

Specifically, Appellants contend that the XF conversion script of Richard is not a master style template, since the master style template is a style template for defining and setting, in blocks of data, presentation format (font, size, color, position on a page) that are absent in the unformatted data from the information provider (App. Br. 29). Appellants further contend that Richard teaches pre-existing templates, which is conventional; yet the Appellants' claimed invention resolves the problem of having to generate pre-existing templates by automatically generating a master style template that generates additional target-specific data conversion templates using one or more blocks of data selected from the master style template (App. Br. 34). Moreover, Appellants contend that the Examiner has improperly omitted the term "service" as recited in the claims (App. Br. 32).

With particular reference to the Examiner's finding that the XF conversion script contains a base template that is similar to the master style template recited in claim 1, Appellants contend the following: (1) the Examiner does not provide a clear explanation of why he finds that the XF Conversion Script is the same as the master style template (App. Br. 29); (2) the master style template follows a predetermined style, whereas the XF conversion script does not follow or define any particular style for any particular client device (App. Br. 30); (3) the XF conversion script does not include physical display of the data that it converts (App. Br. 30); and (4) the master style template is not used directly to convert unformatted data to a particular markup language (App. Br. 30).

Last, with respect to the term '*corresponding*,' Appellants contend that the Examiner did not show an identical invention for the recited claim limitations "non-display-formatted service data *corresponding* to a selected service to be displayed on one or more devices or classes of device" or "a plurality of blocks of data *corresponding* to markup languages and presentation capabilities of the target devices or classes of devices" (App. Br. 31) (emphasis added). Appellants contend that Richard explicitly teaches a "blind" data conversion process in which input data marked up in any one of a plurality of markup formats is rapidly converted into output data in any one of the plurality of markup formats without regard to the specific type of input information or to the specific type of client device on which the information is to be displayed (App. Br. 31).

In response to Appellants' contentions, the Examiner finds that the claims are to be given their broadest reasonable interpretation during prosecution, and the scope of a claim cannot be narrowed by reading disclosed limitations into the claim. *In re Morris*, 127 F.3d 1048, 1054 (Fed.Cir.1997) (Ans. 19). As such, the Examiner finds that Richard anticipates all of the claimed limitations (Ans. 3-6). Specifically, the Examiner finds that the law of anticipation does not require that a reference "teach" what an Appellants' disclosure teaches; it is only necessary that the claims "read on" something disclosed in the reference. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 772 (Fed. Cir. 1983) (Ans. 19).

The Examiner finds that the claim limitation of "examining non-display-formatted data corresponding to a selected service to be displayed on one or more target devices or classes of devices" reads on the conversion system of Richard found in Figure 2 wherein element, "content (XML)," is

the “non-display-formatted service data” that corresponds to “a selected service” which is to be converted into markup language data adapted to be displayed on one of the target devices, including a portable telephone having a WML browser or a personal computer having an HTML browser (Ans. 23, FF 2).

Further, the Examiner finds this first step of claim 1 reads on the generator module 330 of XGate converter 440, which can break down each request into orders using the standardization module 335 and transformation module 350 for the purpose of transforming web sites encoded in HTML into WML for a specific portable telephone, wherein the repository module 360 keeps data corresponding to the particular model of a portable telephone and its physical characteristics, such as the dimensions of its display (Ans. 23-24, FF 4). The last step of “configuring each service template for converting the non-display-formatted service data into markup language data adapted to be displayed on one of the target devices or classes of devices,” the Examiner finds, reads on this disclosure in Richard as well (Ans. 30, FF 4).

The Examiner finds that the claim limitation of “defining in a master style template a plurality of blocks of data corresponding to markup languages and presentation capabilities of target devices or classes of devices” reads on the XF conversion script that is included within the XGate Converter 440 (Ans. 24, FF 5, 6). The Examiner finds that the XF conversion script is a series of templates, having a base template which is similar to the Appellants’ master template (Ans. 24, FF 7). The Examiner finds that the XF conversion script is used to create a plurality of service templates using one or more blocks of data selected from the master style

template or the base template as shown in Figure 2 of Richard (Ans. 26, FF 2, 7].

We are not persuaded by Appellants' arguments, and agree with the findings of the Examiner. We disagree with Appellants' characterization of Richard. The mere fact that Richard describes that the conversion system converts the content of web sites "blindly" refers to the fact that the conversion system uses an extremely flexible conversion mechanism that does not require that input data be standardized in XML or that the input data strictly respect a hierarchy of tags, not that the conversion system of Richard converts the data without regard to the specific type of input information or the specific type of client device on which the information is to be displayed (FF 3). Further, we agree with the Examiner that Richard discloses all of the limitations of claim 1. Specifically, Richard teaches conversion of input data marked up in any one of a plurality of markup formats (WML, XML, or HTML) to generate standardized data in one of the plurality of markup formats, WML, XML, or HTML (FF 2). Richard teaches an XGate converter 640 that includes an XF conversion script, wherein the XF conversion script is a series of templates including a first template known as the base template (FF 6, 7). We agree with the Examiner's finding that the master service template of claim 1 reads on the base template within the XF conversion script (Ans. 24). We find that the Examiner did provide a clear explanation of why he finds that the XF conversion script is the same as the master style script. We find that Appellants' arguments are not commensurate in scope with the claim language because the master style script having "a predetermined style", a "physical display of the data it converts," and the master style template

which “directly convert unformatted data to a particular markup language” are not recited in the claim.

We therefore find no error in the Examiner’s rejection of representative claim 1 under 35 U.S.C. § 102, nor in the Examiner’s rejection of claims 2-25 which fall with claim 1.

CONCLUSIONS OF LAW

Appellants have not shown that the Examiner erred in finding that Richard discloses defining a master style template having a plurality of blocks of data corresponding to markup languages and presentation capabilities of the target devices or classes of devices and creating a plurality of service templates using one or more blocks of data selected from the master style template.

ORDER

The Examiner’s rejection of claims 1-25 is affirmed.

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Application 09/682,655

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

ELD

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